

REMARKS

The above-referenced application has been reviewed in light of the Final Office Action dated June 12, 2007. Claims 1 and 4-18 are currently pending, claims 2-3 having been previously cancelled. By the present amendment, Applicant has amended claims 1 and 14, and added new claims 15-18 for consideration. It is respectfully submitted that these amendments and new claims add no new matter, are fully supported by the specification, and are allowable over the cited references of record. In light of the amendments made herein and the following remarks and arguments, early and favorable reconsideration and allowance of this application are respectfully requested.

The applicant would like to thank Examiner Thaler for the courtesy extended to the applicants' representative, Dana A. Brussel, Esq., during a telephone interview conducted on July 18, 2007. Examiner Thaler and the applicants' representative discussed independent claim 1 in view of the cited references. The applicants have incorporated Examiner Thaler's helpful suggestions into independent claim 1.

In the Office Action, claim 14 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. It was argued that the recitation of "relative movement between the cannula and the expanded inflatable bladder separates tissue between the opposed surfaces" in claim 14 is confusing and inaccurate since no tissue exists between the opposed surfaces of the bone joint. Applicant respectfully submits that there is tissue disposed between the opposed surfaces of a bone joint, e.g. cartilage or a meniscus. Therefore, Applicant respectfully submits that claim 14 is not indefinite and is condition for allowance, as previously presented. However, in the interests of advancing prosecution, claim 14 has been amended such that the rejected claim language is no longer recited. Support for the amended claim language can be found on page 17,

lines 7-19 of the specification and in Figure 9. Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 14 under 35 U.S.C. § 112, second paragraph.

Claims 1-9, 11 and 12-14 were rejected under 35 U.S.C. § 102 (b) as anticipated by or, in the alternative, as obvious under 35 U.S.C. § 103 (a) over U.S. Patent No. 4,323,071 to Simpson *et al.* ("Simpson"). Applicant respectfully submits that Simpson fails to disclose or suggest each and every feature of the system recited in amended independent claim 1, and therefore, that amended independent claim 1 is allowable over Simpson.

As amended, independent claim 1 recites a system comprising, *inter alia*, a cannula having a passage and a retractor including a shaft that has a first lumen extending therethrough and "an inflatable bladder attached to a distal end of the shaft and extending distally thereof."

Simpson relates to a catheter assembly including a tubular member 38 having a distal end 42 and an inflatable annular portion 43. The inflatable annular portion is affixed to the distal end 42 and is spaced apart from a region of the tubular member 38 that is located proximally of the distal end 42 thereby defining a passage 44. The Office Action asserted that the "inflatable bladder" 43 is disposed adjacent a distal end of shaft 38. Simpson discloses that "[t]he second tubular member 38 has formed therein a balloon-like or inflatable annular portion 43 near the distal end 42 of the first and second tubular members 37 and 38." (Col. 5, lines 5-8) (emphasis added). As seen in FIG. 4 of Simpson below, the "inflatable bladder 43" is attached to the shaft and extends proximally from the distal end 42 of the "shaft" 38. Thus, Simpson fails to disclose or suggest "an inflatable bladder attached to a distal end of the shaft and extending distally thereof" as recited in amended independent claim 1.

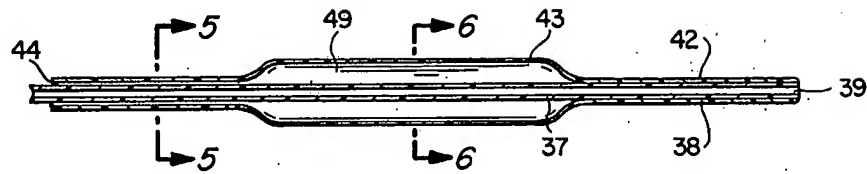


FIG. 4

For at least this reason, the Applicant respectfully submits that Simpson fails to disclose or suggest each and every feature of the system recited in amended independent claim 1, and therefore, that amended independent claim 1 is allowable over Simpson. As claims 4-14 depend from claim 1, the Applicant respectfully submits that claims 4-14 are also allowable over Simpson.

In the Office Action, claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Simpson in view of U.S. Patent No. 4,690,140 to Mecca ("Mecca"). It was acknowledged in the Office Action that Simpson fails to disclose the incorporation of a viewing scope, as recited in claim 10, and relied on Mecca for the disclosure of that concept.

As discussed above, Simpson fails to disclose or suggest the system recited in amended independent claim 1. Incorporating the "viewing scope" allegedly disclosed in Mecca fails to cure this deficiency. Accordingly, the Applicant respectfully submits that Simpson in view of Mecca fails to suggest the system recited in claim 10 and is allowable over Simpson in view of Mecca.

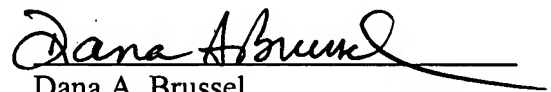
The applicant has added new claim 15 for consideration. As discussed hereinabove, Simpson fails to disclose or suggest the system recited in amended claim 1. Since new claim 15 depends from claim 1, it is respectfully submitted that new claim 15 is in condition for allowance.

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In addition, the applicant has added new independent claim 16 herein for consideration. New claim 16 recites a system including, *inter alia*, a cannula having a passage and a retractor including a shaft and "an inflatable bladder attached to a distal end of the shaft, the inflatable bladder being the distalmost component of the retractor." As discussed above and seen in FIG. 4, Simpson's "inflatable bladder 43" is disposed proximally of distal end 42 of the "shaft" 38 and extends proximally therefrom. Accordingly, the Applicant respectfully submits that Simpson fails to disclose or suggest the system recited in new independent claim 16. Since claims 17 and 18 depend from independent claim 16, it is respectfully submitted that they are also allowable over the cited references of record.

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims pending in the application, namely claims 1 and 4-18, are in condition for allowance. Should the Examiner desire a telephonic interview to resolve any outstanding matters, the Examiner is sincerely invited to contact the undersigned at (631) 501-5713.

Respectfully submitted,


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